



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

**amending for the third time Regulation (EC) No 850/98 of 30 March 1998 for the
conservation of fishery resources through technical measures for the protection
of juveniles of marine organisms**

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 30 March 1998 the Council of Ministers adopted Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms. After this regulation was adopted and published it became apparent that a number of data and developments brought to the Commission's attention should be incorporated into the regulation:

- a) the area where and the time-period during which spawning of so-called Douglas Bank herring takes place has changed;
- b) the need for specific provisions on the use of Danish seine in the so-called plaice box had been overlooked;
- c) the conditions agreed within the Agreement for the International Dolphin Conservation Program make it acceptable to under certain conditions use purse seines on schools of fish found in association with marine mammals;
- d) the differences in maximum body size for two species of spotted dogfish necessitate a revision of the appropriate mesh size for fixed gears for each of these species.

The enclosed proposal for a Council Regulation attempts to incorporate these data and developments by means of amending Regulation (EC) No 850/98.

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amending for the third time Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas the area where and the time-period during which spawning of a certain herring stock has changed; whereas, therefore, the special provisions relating to fishing in said area and during said time-period have to be changed;

Whereas Article 29 contains a number of exemptions for the use of specific fishing gears; whereas these exemptions should apply equally to the gear-type Danish seine; whereas, as an oversight, exemptions for this gear were not originally included in that Article; whereas, therefore, Danish seine should be included among the exemptions of Article 29;

Whereas Article 33 prohibits the use of purse seines on schools of fish found in association with marine mammals; whereas such use would be acceptable in the case of fishing vessels operating under the conditions agreed within the Agreement for the International Dolphin Conservation Program, which the Community has decided to apply provisionally by Decision ...; whereas, therefore, an exemption clause to that effect should be added to Article 33;

Whereas Annex VI establishes categories of mesh sizes for fixed gears to be used for catching certain species or groups of species; whereas in the light of data made

¹ OJ C

² OJ C

³ OJ C

available to the Commission, the mesh size categories for two species of spotted dogfish should be revised;

Whereas Regulation (EC) No 850/98⁴ has therefore to be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 850/98 is hereby amended as follows:

1. In Article 20 paragraph 1, subparagraph (f) shall be replaced by:

“(f) (i) from 21 September to 15 November, within the part of ICES Division VIIa bounded by the coast of the Isle of man and straight lines drawn consecutively between the following coordinates:

- latitude 54° 20' 00'' N, longitude 04° 25' 05'' W and latitude 54° 20' 00'' N, longitude 03° 57' 02'' W,

- latitude 54° 20' 00'' N, longitude 03° 57' 02'' W and latitude 54° 17' 05'' N, longitude 03° 56' 08'' W,

- latitude 54° 17' 05'' N, longitude 03° 56' 08'' W and latitude 54° 14' 06'' N, longitude 03° 57' 05'' W,

- latitude 54° 14' 06'' N, longitude 03° 57' 05'' W and latitude 54° 00' 00'' N, longitude 04° 07' 05'' W,

- latitude 54° 00' 00'' N, longitude 04° 07' 05'' W and latitude 53° 51' 05'' N, longitude 04° 27' 08'' W,

- latitude 53° 51' 05'' N, longitude 04° 27' 08'' W and latitude 53° 48' 05'' N, longitude 04° 50' 00'' W,

- latitude 53° 48' 05'' N, longitude 04° 50' 00'' W and latitude 54° 04' 00'' N, longitude 04° 50' 00'' W,

(ii) from 21 September to 31 December, within the part of ICES Division VIIa bounded by the following coordinates:

- the east coast of Northern Ireland at latitude 54° 15' N,

- latitude 54° 15' N, longitude 5° 15' W,

- latitude 53° 50' N, longitude 5° 50' W,

- the east coast of Ireland at latitude 53° 50' N;”.

⁴ OJ L 125, 27.4.1998, p. 1.

2. Article 29 paragraph 4 shall be modified as follows :
 - (a) In subparagraph (a), first indent, the words “shall be authorised to fish in the areas referred to in that paragraph using demersal otter trawls” shall be replaced by: “shall be authorised to fish in the areas referred to in that paragraph using demersal otter trawls or Danish seine”.
 - (b) In subparagraph (b), the introductory phrase shall be replaced by the following : “However, vessels whose engine power exceeds 221 kW shall be permitted to use demersal otter trawls or Danish seine, or paired vessels whose combined engine power exceeds 221 kW shall be permitted to use demersal pair trawls, provided that :”.
3. In Article 29 paragraph 5, the words “Within areas where beam trawls, otter trawls or bottom pair trawls may not be used” shall be replaced by: “Within areas where beam trawls, otter trawls, bottom pair trawls or Danish seine may not be used”.
4. The following paragraph shall be added to Article 33:

"3. However, paragraph 1 shall not apply to those vessels operating under the conditions agreed within the Agreement for the International Dolphin Conservation Program (Washington, 15 May 1998) and signed by the Community at [date]. The names and technical characteristics of those vessels shall be contained on a list which shall be drawn up by the Commission in accordance with the procedure referred to in Article 48."
5. Annex VI shall be replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

"ANNEX VI

FIXED GEARS: Regions 1 and 2

Species/mesh	10-30 mm	50-70 mm	90-99 mm	100-119 mm	120-219 mm	≥220 mm
Sardine (<i>Sardina pilchardus</i>)	*	*	*	*	*	*
Eel (<i>Anguilla anguilla</i>)	*	*	*	*	*	*
Sprat (<i>Sprattus sprattus</i>)	*	*	*	*	*	*
Horse mackerel (<i>Trachurus spp.</i>)		*	*	*	*	*
Herring (<i>Clupea harengus</i>)		*	*	*	*	*
Mackerel (<i>Scomber spp.</i>)		*	*	*	*	*
Red mullets (<i>Mullidae</i>)		*	*	*	*	*
Garfish (<i>Belone spp.</i>)		*	*	*	*	*
Sea bass (<i>Dicentrarchus labrax</i>)			*	*	*	*
Grey mullets (<i>Mugilidae</i>)			*	*	*	*
Lesser spotted dogfish (<i>Scyliorhinus canicula</i>)			*	*	*	*
Dab (<i>Limanda limanda</i>)				*	*	*
Haddock (<i>Melanogrammus aeglefinus</i>)				*	*	*
Whiting (<i>Merlangius merlangus</i>) ⁽²⁾				*	*	*
Flounder (<i>Platichthys flesus</i>)				*	*	*
Sole (<i>Solea vulgaris</i>)				*	*	*
Plaice (<i>Pleuronectes platessa</i>)				*	*	*
Cuttlefish (<i>Sepia officinalis</i>)				*	*	*
Cod (<i>Gadus morhua</i>)					*	*
Pollack (<i>Pollachius pollachius</i>) ⁽³⁾					*	*
Ling (<i>Molva molva</i>)					*	*
Saithe (<i>Pollachius virens</i>)					*	*
Hake (<i>Merluccius merluccius</i>) ⁽³⁾					*	*
Picked dogfish (<i>Squalus acanthias</i>)					*	*
Greater spotted dogfish (<i>Scyliorhinus stellaris</i>)					*	*
Megrim (<i>Lepidorhombus spp.</i>)					*	*
Lumpsucker (<i>Cyclopterus lumpus</i>)					*	*
All other marine organisms						*(¹)

⁽¹⁾ Catches of anglerfish (*Lophius spp.*) taken from ICES Sub-areas VI and VII and retained on board in excess of 30% of the total catch on board from those areas must be taken with a minimum mesh size of 250 mm or greater.

⁽²⁾ In ICES divisions VIIe and VIId, with effect from 31 December 1999, the minimum size will be 90 mm.

⁽³⁾ In ICES divisions VIIe and VIId, with effect from 31 December 1999, the minimum size will be 110 mm."